

MINUTES
City of Geneva
Council Meeting
May 22, 2017
6:00 p.m.

Tim Miller opened the Council Meeting at 6:00 p.m.

Roll Call – Tim Miller, Susan Hagan, David W. Per Due, William Buskirk, Philip Cordova, Wm. Lucas McDaniel and Mario Butera.

Pledge of Allegiance to the Flag was said and prayer was offered by Rev. Raymond Baker – Faith Freedom Fellowship.

Motion was made by Wm. Lucas McDaniel to approve the Minutes of the May 8, 2017 Council Meeting, seconded by Mario Butera. Roll call, 6 yeas, 1 abstention. Motion duly passed.

Department Presentation – Income Tax Department – Shelly Huff Presenting

Revenue for April was included in the Council Packet. Between April 13 and April 18, 2017 459 citizens were assisted in the Tax Department.

The Tax Office sent out 3,900 notices.

The second quarter estimates are ready to go out.

Joe Testa indicated that there is a proposal for central collection to be optional not mandatory.

Citizens –

Mr. Miller read a proclamation for “Click it or Ticket Mobilization.”

Items for Consideration of Council –

Ordinance No. 3209. An Ordinance to Amend the 2017 Budget through Appropriations and Fund Transfers, Attached Hereto and Marked Exhibit “A,” and declaring an emergency.

The Elm Street appropriation will allow the City to extend the sidewalks from where it is ending with the loan agreement at Little People’s Park to include both North and South over to Eagle Street. A trench had to be cut between Third and Fourth Streets that was not part of the original repaving. The hole can be filled, the permanent fill can be put in but it cannot be over-laid with the funds from the loan.

Motion by Susan Hagan to pass Ordinance No. 3209, seconded by Philip Cordova to declare Ordinance No. 3209 an emergency measure. Roll call, 7 yeas. Motion by Susan Hagan, seconded by Mario Butera that the rule of law requiring certain Ordinances be read at three separate meetings be waived and suspended and Ordinance No. 3209 be placed on

the final roll for passage. Roll call, 7 yeas. Roll call on passage 7 yeas. Motion duly passed.

Ordinance No. 3210. An Ordinance approving the Sale of Real Property Known as PP#20-039-00-027-00, and declaring an emergency.

This is the property on Austin Road. The property was publicly advertised. Only one bid was received in the amount of \$14,500.

Motion by Wm. Lucas McDaniel to pass Ordinance No. 3210, seconded by Susan Hagan to declare Ordinance No. 3210 an emergency measure. Roll call, 7 yeas. Motion by Wm. Lucas McDaniel, seconded by Susan Hagan that the rule of law requiring certain Ordinances be read at three separate meetings be waived and suspended and Ordinance No. 3210 be placed on the final roll for passage. Roll call, 7 yeas. Roll call on passage 7 yeas. Motion duly passed.

Ordinance No. 3211 – First Reading. An Ordinance to Amend Sections 881.011 and 881.012 of the Codified Ordinances of the City of Geneva in Order to Increase the Income Tax Rate by Seven-Tenths of a Percent (0.7%) from the Current Rate of One and One-Half Percent (1.5%) to a Rate of Two and Two-Tenths Percent (2.2%) Beginning January 1, 2018, for the Purposes of General Municipal Operations, Maintenance, New Equipment and Capital Improvements of the City, and declaring an emergency. First Reading.

Ordinance No. 3211 was drafted as a result of the recommendation by the Finance Committee.

This Ordinance is to allow the city to amend the Code. It is the first of two pieces of legislation. The second piece, a Resolution, will place the measure on the ballot. The income tax will require a vote by the citizens. The deadline for filing the request to place the income tax question on the ballot is August 9, 2017. The Ordinance meets the house bill changes that took place earlier this year. Mr. Starkey thanked Lauren Gardner and Shelly Huff for their work in preparing this Ordinance. The income tax increase will raise \$1.2 million.

Mr. Per Due stated that a previous council of the City had voted to give Mr. Clutter, Spire Institute, a break in the amount of approximately \$1.2 million. Mr. Clutter owed the City \$1.2 million, the City accepted \$200,000.

The tap-in fees are being paid in full as per the agreement. The City does not receive any of the property taxes.

Ms. Gardner stated that when the Gareat was being built, the City entered into an agreement regarding the tap-in fees. The agreement was based on building plans and what Gareat intended to build onto the property and the City's ordinances. The tap-in fees were between \$900,000 and \$1 million. At the time of the development Gareat met with the City Manager and the Wastewater Superintendent to structure a tap-in fee agreement where non-profits would pay a discounted rate in relation to the type of flow. The Spire did not make their payments in full and the City filed suit to terminate the agreement and, recover the amounts that were owed to the City. The lawsuit was settled. It was agreed that Spire would pay the amount originally agreed upon and Spire would pay that amount by having the City receive the income that Spire would

have received from JEDD II until paid in full. The tap-in fees being paid are being paid into the proprietary fund and not the general fund. Income taxes will go to the general fund.

Mr. Buskirk stated that the JEDD II income that Spire receives from the Agreement is for the sewer line Spire put in at no cost to the City. Spire needed the sewer line to be in by a certain time. The City would have had to gone through a public bid process which would not have met the timeframe. Since it became a public sewer, the City pays Spire back the approximately \$400,000. With regard to the penalty and fees, the Agreement that was made was to bring the amount owed back to the original agreement before they went into breach. One of the considerations was how likely would the City ever see the \$900,000 and if so how long before the City would see any funds.

Mr. Per Due stated that he understands that the proprietary fund can only be used for sewer; however, the City could have put the tap-in fees in the sewer and used the other money for general fund money. They owed the City approximately \$1 million. The City hired counsel. This Council with the exception of Mr. Per Due who voted no and Mr. Lucas, Mr. Butera and Mr. Cordova who were not on council at the time, voted yes to substantially reduce the amount owed by Mr. Clutter and Spire. Council is now discussing a substantial tax increase.

Mr. Miller stated that Council is voting to put this on the ballot and let the voters consider it. This is the first step in the process. The citizens will decide if the needs of the City of are being met with the funds the City currently has. The needs of the City were discussed at the Finance Committee.

Mr. Per Due stated that this is a 47% increase from 1.5% to 2.2%. No public meetings have been held for citizens to voice their opinions. The Citizens have the right to know about this prior to seeing it on the ballot.

Mr. Miller stated that a Finance Committee meeting was advertised and held. The legislation will have three readings. The City will be preparing a series of press releases. The City will be preparing an information sheet indicating the items the City intends to use the funding for.

Mr. Cordova stated that a Finance Committee was advertised and held. Although Mr. Cordova was not on Council at the time of the vote, it should be noted that \$900,000 is misleading. The City did not have a model to determine the tap-in fee for the Spire. There was no model for a Sports Complex. The model that was used was a restaurant. If there are x number of seats in a restaurant, using the multiplier, an estimate of water consumption can be determined. Within x number of meters of the freeway. A 5,000 seat stadium model was considered. So the tap-in was determined using a restaurant model, the freeway and other information. The Wastewater Superintendent had no other way to determine a number. The City stated that number knowing and understanding that it does not really equate to a Sports Complex. Gary did a good job explaining that at the time.

Mr. Per Due disagreed in that if the number was not a fair number why did the City hire Counsel to collect that number. It was never introduced to Council to take a lesser fee. At the time legal counsel was hired to collect approximately \$1 million.

Mr. Cordova stated that he was not on Council at that time but it was never intended that the \$1 million dollars was a set number. To equate the proposed income tax increase is to offset the proposed \$1 million tap-in fee is not what is going on.

Mr. Buskirk stated that there was an agreement to make payments over time for the tap-in fee. Spire breached the agreement to make payments. There was a number of things in the contract that the City had for the tap-in fee that inflated that number such as penalties and interest. The City made an agreement to let Spire get back into agreement with the original contract.

Mr. Per Due stated that when a contract is written with fees and penalties and the contract is breached, the fees and penalties should be enforced.

Mr. Miller stated that the Spire is a separate issue.

Mr. Per Due will oppose the tax increase. Mr. Per Due stated that this is a tax increase that is way beyond. The City needs to live within its budget. Mr. Per Due asked if the out of town workers will be given a credit.

Mr. Miller agreed that the federal and state governments need to live within their budgets however they have been balancing their budgets on the backs of the local governments by cutting the local government funds. State tax cuts are causing the local governments to raise taxes.

The State has cut half a million dollars a year from the City of Geneva.

Susan stated the hardest thing for an elected official to ask a community for money. These are some of the hard decisions. The voters will decide. We need these funds to ensure safety for our community and to make sure the City continues to run. This is happening across the country.

Resolution No. 3387. A Resolution Declaring it Necessary to Improve the Streets in the City of Geneva by Supplying Electric Lighting, and declaring an emergency.

The assessment has been the same for a number of years. This resolution assesses the properties to pay the electrical bill and the lease for the utility poles. The green ornate poles belong to the City but the other electric poles belong to First Energy.

Motion by Philip Cordova to pass Resolution No. 3387, seconded by Wm. Lucas McDaniel to declare Resolution No. 3387 an emergency measure. Roll call, 7 yeas. Motion by Mario Butera, seconded by Wm. Lucas McDaniel that the rule of law requiring certain Resolutions be read at three separate meetings be waived and suspended and Resolution No. 3387 be placed on the final roll for passage. Roll call, 7 yeas. Roll call on passage 7 yeas. Motion duly passed.

Resolution No. 3388 - First Reading. A Resolution Directing the Board Of Elections to Place Upon the Ballot at an Election to be Held on November 7, 2017, the Question of Increasing the City Income Tax Rate by Seven-Tenths of One Percent (0.7%) from the Current Rate of One and One-Half Percent (1.5%) to a Rate of Two and Two-Tenths Percent (2.2%), Beginning January 1, 2018, and declaring an emergency. First Reading.

This resolution authorizes placing the income tax increase on the ballot for citizens to vote on.

City Manager Report –

There was a six inch water main break in a transmission line that goes through Normandy Village leaking under a trailer. The transmission line leads to the hospital. The hospital had no water. The City will be evaluating the line that goes through there. The City would like to abandon that line. The break did not affect Rae Ann only the hospital and Normandy. There is a second six inch transmission line that was installed at a later date that also goes through Normandy. The City will be looking at how to tie them in better.

The section of South Broadway at Tibbitts will not be fixed before Memorial Day. The base is shot. The City is getting prices to dig that section out and redo it.

Mr. Starkey met with citizens who would like to revive the Clean and Green Committee. The City hopes to have some names for Council in the near future.

Officers Cahill and Gonzales participated in the Cops and Kids.

Officer Gonzales is back on full duty.

Unfinished Business –

Mr. Buskirk distributed a copy of the Montrose Group response to the School Board. The letter indicates that they will not negotiate with the School Board any longer. They will work to push through legislative change.

Mr. Buskirk would like Council to express opposition to a legislative change.

The School Board was offering to sign on to support it if the Spire paid their back taxes minus the fees and penalties. Spire would make a pilot payment in lieu of taxes until 2026 which amount to 25% of what the top end rate would be based on an evaluation of \$54 million, the assessed value. The language is broad and could allow the Commissioners to set an evaluation of the property. If the evaluation were changed it could monkey with the tax rates and what people paid previously throughout the school district, NAD, and the Vocational School.

Mr. Buskirk stated that if they have stopped negotiating the school when they are getting 25% what would they expect to get to pass on that and move to a different offer; is that 90% abatement, lower evaluation, evaluation of property that hasn't been evaluated as yet.

The City is dependent on development in the JEDDs. If Ronnie Lee LLC has control of a couple hundred acres that are automatically 90% abated or some other scenario it puts the property owners at a competitive disadvantage to attract investment.

Mr. Buskirk requested either a Resolution be passed or authorization be given to the City Manager to write a letter to the State Senate and House Representative expressing our opposition to the legislation.

Mr. Buskirk does think that Mr. Patterson is signed on.

Montrose Group still believes they can get the legislation through to change the state law.

Discussion regarding a Resolution opposing or a letter. A resolution would also include Council's opposition.

It is an amendment to the budget bill.

A short discussion was had regarding the need and time for a resolution.

Wm. Lucas McDaniel made a motion to authorize the City Manager to draft a letter to State Legislature regarding Montrose Group's proposal. Roll call on passage. 7 yeas. Motion duly passed.

New Business – None.

Payment of Bills – None.

Committee Reports –

A Safety Committee Meeting is being scheduled directly after the June 12, 2017 council meeting.

Citizens – None.

Wm. Lucas McDaniel made a motion to adjourn.

Council meeting adjourned at 6:47 p.m.

Recorded by: Phyllis Dunlap
Clerk of Council

President of Council

Clerk of Council